
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

1998 Biennial Regulatory Review -)
47 C.F.R. Part 90 - Private Land Mobile)
Radio Services)

WT Docket No. 98-182
RM-9222

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Replacement of Part 90 by Part 88 to Revise)
the Private Land Mobile Radio Services and)
Modify the Policies Governing Them)
and)
Examination of Exclusivity and Frequency)
Assignment Policies of the Private Land)
Mobile Services)

To: The Commission

COMMENTS OF AMERICAN MOBILE TELECOMMUNICATIONS, INC.

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS
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January 19, 1999

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415(a) of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, hereby respectfully submits these Comments in the above-entitled proceeding.^{1/}

I. INTRODUCTION

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. These members operate conventional and trunked commercial wireless systems that are licensed under Part 90 of the FCC's Rules. Thus, the Association has a significant interest in the outcome of this proceeding.

II. BACKGROUND

2. The NPRM is the result of the FCC's review of Part 90 to determine which regulations are not in the public interest, obsolete, overly complex, require editorial change or are redundant in nature.^{2/} By the Notice the Commission seeks comment on a variety of changes designed to simplify and update the Commission's Part 90 rules. AMTA applauds the Commission's attempt at streamlining its procedures and urges the Commission to adopt the proposed changes with the modifications recommended herein.

^{1/} 47 C.F.R. § 1.415(a); Notice of Proposed Rulemaking, WT Docket No. 98-182, FCC 98-251, 13 FCC Rcd ____ (rel. Oct. 20, 1998)("NPRM" or "Notice").

^{2/} NPRM at ¶ 2.

III. DISCUSSION

A. AMTA Supports Standardizing the Construction Period for all Part 90 Licensees.

3. The NPRM proposes to modify the FCC rules to extend to one year the construction period for all Private Mobile Radio Service ("PMRS") stations.^{3/} AMTA supports adoption of this revision. As noted by the NPRM, such a modification would standardize the system implementation period for all Part 90 licensees. Under existing rules, two licensees utilizing the same spectrum may be subject to different construction deadlines. For example, a CMRS licensee on a 450 MHz frequency pair has twelve months from the date of grant to place a station in operation, 47 C.F.R. § 90.167, while a PMRS licensee on the same channel must construct within eight months from the date of grant. 47 C.F.R. § 90.155(a). There is no rational basis for, or public interest served by, this disparate treatment. In fact, a standardization of this rule will serve the public interest by reducing licensees' confusion as to which construction period is applicable to their systems.

4. AMTA takes this opportunity to bring to the Commission's attention what appears to be an administrative error. The Third Report and Order in GN Docket No 93-252 extended a twelve-month construction requirement to PMRS licensees on SMR, 220 MHz, private paging and Business Radio frequencies.^{4/} Appended rule section 90.155 associated with the Third Report

^{3/} As discussed further herein, the Commission by the Third Report and Order in Docket No. 93-252, has already extended the twelve-month construction period to Part 90 Commercial Mobile Radio Service ("CMRS") licensees and to those PMRS licensees operating on SMR, 220 MHz, private paging and Business Radio frequencies.

^{4/} Third Report and Order, GN Docket No. 93-252, 9 FCC Rcd 7988 ¶ 177 (1994).

and Order incorporated the change.^{5/} Nevertheless, a review of the Commission's rules reveals that this amendment is not reflected in the current Rule Section 90.155. AMTA requests that the FCC correct this oversight.

B. AMTA Supports the FCC's Finding that Rule Section 90.187 Applies Only to Centralized Trunked Systems, But Urges the Commission to Adopt Technology-Neutral Definitions of Centralized and Decentralized Trunking.

5. Rule Section 90.187 specifies the manner in which trunking may be implemented in the bands between 150 and 512 MHz.^{6/} The rule requires that an applicant indicate on its application that its system will be trunked. It further specifies that trunking will be permitted if an applicant has exclusive use of its proposed frequencies due to loading, has concurrence to trunk from affected co-channel and adjacent channel licensees, or meets the technical criteria justifying frequency coordination for such use.^{7/} By the Notice, the Commission seeks to clarify that Rule Section 90.187 and its associated restrictions apply only to centralized, and not to decentralized, trunked systems.^{8/}

6. AMTA supports the Commission's interpretation. The Refarming 2d R&O is explicit that the requirement of obtaining consent from affected co-channel and adjacent channel licensees applies to applicants requesting authority to implement "centralized trunked systems"

^{5/} Id., Appendix B at 30.

^{6/} 47 C.F.R. § 90.187.

^{7/} Id.

^{8/} NPRM at ¶ 23.

(emphasis added).^{9/} Further, the Refarming 2d R&O specifically references paragraph 24 of the Notice of Proposed Rule Making^{10/} in the Refarming proceeding and proposed Rule Section 88.445.^{11/} Although that proposed rule also refers to "trunked operations" and "trunked systems",^{12/} the footnote in the Refarming NPRM is specific and unambiguous that no changes in the Commission's rules were necessary to implement decentralized trunking in the bands below 800 MHz:

Centralized trunking is not currently permitted in the bands below 800 MHz.^{44/} The vast majority of commenters favor permitting centralized trunking when a licensee has de facto exclusivity. Thus, we propose that centralized trunking

^{9/} We will permit licensees to implement centralized trunked systems in the 150-174 MHz, 421-430 MHz, 450-470 MHz and 470-512 MHz bands, provided that they (1) obtain the consent of all licensees whose service areas overlap a circle with a radius of 113 km (70 mi) from the trunked system's base station and whose operating frequency is 15 kHz or less removed from the operating frequency of a trunked system designed to operate on 25 kHz channels or 7.5 kHz or less removed from a 12.5 kHz trunked system or 3.75 kHz or less removed from a 6.25 kHz trunked system; and (2) comply with all frequency coordination requirements.

Second Report and Order, PR Docket No. 92-235, 12 FCC Rcd 14307 ¶ 58 (1997)(emphasis added)("Refarming 2d R&O").

^{10/} Notice of Proposed Rule Making, PR Docket No. 92-235, 7 FCC Rcd 8105 (1992)("Refarming NPRM").

^{11/} Refarming 2d R&O at ¶ 56.

^{12/} **§ 88.445 Trunked operations.**

(a) Trunked operations will be authorized in the 220-222 MHz and in the bands above 800 MHz except as restricted in § 88.737.

(b) Trunked operations will be authorized in the **150-174 MHz and 421-512 MHz** bands as follows:

(1) The applicant has obtained **written concurrence** from all co-channel base station licensees located within 113 km (70 mi) or;

(2) The applicant has obtained **written concurrence** from all co-channel base station licensees located within 80 km (50 mi) and all co-channel base **stations exceed** the power limitation of § 88.429. Proposed Rule Section 88.445, Appendix D to Refarming NPRM (emphasis in original).

immediately be explicitly permitted where exclusivity is recognized by the Commission or when all co-channel licensees within 50 miles concur.

^{44/} Decentralized trunking is, and would continue to be permitted. See Inquiry at para.27.^{13/}

Nothing in the Refarming 2d R&O modified this finding. Accordingly, it is evident that Rule Section 90.187 applies only to those applicants seeking to implement centralized trunked systems, not those proposing decentralized trunked operations. This conclusion was dictated by, and is entirely consistent with, the long-standing rules governing the use of frequencies on shared bands such as 450-470 MHz Part 90 channels.

7. While AMTA agrees with the Commission's conclusion as to the application of Rule Section 90.187, the Association requests that the FCC re-examine its description of what constitutes a "centralized" versus a "decentralized" system to distinguish more carefully between the two types of facilities.

8. The appellation "decentralized trunking" perhaps is a misnomer as this mode of operation is fundamentally different from the trunked systems deployed at 800 MHz and 900 MHz. Most importantly, the frequencies assigned to 800 MHz and 900 MHz trunked systems are available on an "exclusive" basis pursuant to FCC-defined co-channel separation criteria.^{14/} Channels are available without monitoring for co-channel activity because each system is assumed to have sufficient geographic separation from co-channel licenses so that the frequencies can be used simultaneously without interference. Thus, every frequency in a trunked 800 MHz or 900

^{13/} Refarming NPRM at ¶ 24 (emphasis added).

^{14/} See, 47 C.F.R. § 90.621(b).

MHz system is available any time it has not been assigned already to a unit on that system. This centralized trunked technology is the type of operation the Commission announced it will allow below 800 MHz for those licensees which have obtained de facto exclusive use of their frequencies in accordance with applicable FCC requirements.^{15/}

9. By contrast, decentralized trunked technology is specifically designed to operate in an environment where licensees do not have exclusive and unfettered use of their frequencies. The Refarming NOI describes the fundamental distinction between these facilities and those deploying centralized trunking technology:

The critical difference between equipment designed to trunk on exclusive use channels and this new equipment is that rather than using centrally located equipment to assign channels automatically based solely on activity by users of that system, this new equipment monitors for potential interference to co-channel users. This monitoring is an automated variation of the monitoring required of all users of shared spectrum.^{16/}

10. The suggested distinction in the Notice is more limiting. According to the NPRM, in a decentralized trunked system, "the mobile units continually monitor the systems's assigned channels until an unused channel is found", while a centralized trunked system employs a method of dynamic channel assignment which "require[s] repeaters specifically designed for trunked operations."^{17/} In fact, however, while some decentralized systems rely on monitoring by the mobile unit, others employ techniques whereby monitoring is conducted at the repeater site. Both

^{15/} See, Second Report and Order, PR Docket No. 92-232, 12 FCC Rcd ____ ¶¶56 - 59 (1997)("Refarming 2d R&O"); 47 C.F.R. § 90.187.

^{16/} Notice of Inquiry, PR Docket No. 91-170, 6 FCC Rcd 4126 ¶30 (1991)("Refarming NOI")(emphasis added).

^{17/} NPRM at ¶ 23.

approaches are consistent with the rules and policies generally applicable to shared spectrum use.

FCC Rule Section 90.403(e) states:

Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.

The FCC traditionally has interpreted that provision not as requiring either mobile monitoring or repeater monitoring in all instances. Rather, the Commission has considered situations on a case-by-case basis and has required such monitoring as dictated by geographic and technical factors to promote the compatible use of shared frequencies. The same technology-neutral approach should be used for decentralized trunked systems. Accordingly, AMTA urges the FCC to differentiate centralized versus decentralized trunked systems based on the latter's requirement to monitor without dictating how that obligation must be met.

11. Additionally, in Appendix B to the Notice, proposed Rule Section 90.187 is modified to provide that the maximum number of frequency pairs that may be assigned at any one time for the operation of a trunked radio station is ten.^{18/} Because this change is not discussed in the text of the NPRM, AMTA does not know the Commission's rationale for adopting this provision. Presumably, the change is based on one of the recommendations contained in a proposal from the Land Mobile Communications Council ("LMCC").^{19/} The LMCC comments represented a comprehensive approach to balancing the interests of applicants seeking trunked

^{18/} Notice, Appendix B.

^{19/} Supplemental Comments of the Land Mobile Communications Council, filed July 22, 1998.

authorizations with entities interested in conventional operations. AMTA urges the Commission to address LMCC's proposal in a uniform manner, rather than in a piecemeal fashion.

C. AMTA Supports the Limitation of Out-of-Band Emissions.

12. The NPRM seeks comment on whether the Commission should apply the concept of Adjacent Channel Coupled Power ("ACCP") to all Part 90 frequency bands instead of the tradition emission mask approach contained in the current rules.^{20/} As described by the Notice, the ACCP is a more flexible approach with minimal technical requirements.^{21/}

13. AMTA is fully supportive of methodologies which will maximize the efficient use of spectrum; however, at this time the Association has not had sufficient opportunity to review in detail the ACCP approach suggested, and defers specific comment on the proposal until a later date.

IV. CONCLUSION

14. For the reasons described above, AMTA urges the FCC to proceed expeditiously to adopt rules consistent with the recommendations herein.

^{20/} Notice at ¶ 35.

^{21/} Id. at ¶ 34.

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this January 19, 1999, caused to be hand delivered a copy of the foregoing Comments to the following:

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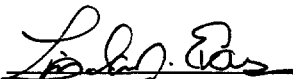
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